



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FROM DIRECTORS OFFICE**

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JAN 13 2005

TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Michael A. Burleson : **TO MAKE SPECIAL**
Application No. 10/749,040 : **(INFRINGEMENT)**
Filed: December 30, 2003 :
For: SAFETY SWIVEL SEATBACK FOR
RECREATIONAL VEHICLES

This is a decision on the petition under 37 C.F.R §1.102(d) filed July 30, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed July 30, 2004 lacks requirements 2(A)-2(C) above. While an alleged copy of applicant's device is set forth in the request to Make Special there is no support that the device in question actually is on the market. Additionally, no rigid comparison of the claims and the alleged infringing device has been made by applicant nor has a thorough search of the prior art been conducted with copies of the closely related art provided to the office. In view of these deficiencies, the petition is DISMISSED.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.


Randolph A. Reese
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Technology Center 3600
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RAR/jwk: 1/4/05